

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariana Thomas	Team: Squad #16	CCRB Case #: 202201283	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/22/2022 2:53 PM	Location of Incident: In front of § 87(2)(b)	Precinct: 73	18 Mo. SOL 8/22/2023	EO SOL 8/22/2023	
Date/Time CV Reported Tue, 03/01/2022 4:42 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 03/01/2022 4:42 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Ahmed Almelaiki	24485	962212	073 PCT
2. PO Derrell Henry	06754	966101	073 PCT
3. PO Keston Paul	21869	959880	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Ahmed Almelaiki	Abuse: Police Officer Ahmed Almelaiki stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
B. PO Derrell Henry	Abuse: Police Officer Derrell Henry stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
C. PO Keston Paul	Abuse: Police Officer Keston Paul stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
D. PO Ahmed Almelaiki	Abuse: Police Officer Ahmed Almelaiki stopped § 87(2)(b)	§ 87(2)(b)
E. PO Derrell Henry	Abuse: Police Officer Derrell Henry stopped § 87(2)(b)	§ 87(2)(b)
F. PO Keston Paul	Abuse: Police Officer Keston Paul stopped § 87(2)(b)	§ 87(2)(b)
G. PO Derrell Henry	Abuse: Police Officer Derrell Henry frisked § 87(2)(b)	§ 87(2)(b)
H. PO Keston Paul	Abuse: Police Officer Keston Paul searched the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
I. PO Ahmed Almelaiki	Abuse: Police Officer Ahmed Almelaiki threatened to arrest § 87(2)(b)	§ 87(2)(b)
J. PO Derrell Henry	Abuse: Police Officer Derrell Henry failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
K. PO Ahmed Almelaiki	Abuse: Police Officer Ahmed Almelaiki failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
L. PO Keston Paul	Abuse: Police Officer Keston Paul failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
M. PO Keston Paul	Abuse: Police Officer Keston Paul failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

Case Summary

On March 2, 2022, § 87(2)(b) filed this complaint via the CCRB's Call Processing System.

On February 22, 2022, at approximately 2:53 p.m. in the vicinity of § 87(2)(b) in Brooklyn, § 87(2)(b) was seated in the rear passenger's seat of a cab, which § 87(2)(b) was operating, when Police Officer Ahmed Almelaiki, Police Officer Derrell Henry, and Police Officer Keston Paul, all of the 73rd Precinct, stopped the vehicle and stopped § 87(2)(b) (**Allegations A-B: Abuse of Authority, § 87(2)(g); Allegations C: Abuse of Authority, § 87(2)(g); Allegation D-E: Abuse of Authority, § 87(2)(g); Allegation F: Abuse of Authority, § 87(2)(g)**). PO Henry ordered § 87(2)(b) to exit the vehicle and frisked him (**Allegation G: Abuse of Authority, § 87(2)(g)**). PO Paul searched § 87(2)(b)'s vehicle (**Allegation H: Abuse of Authority, § 87(2)(g)**). PO Almelaiki told § 87(2)(b) "We are trying to cut you a break right now, but you keep acting up, we are going to be forced to take you back to the precinct and have someone arrest you" (**Allegation I: Abuse of Authority, § 87(2)(g)**). PO Henry, PO Almelaiki, and PO Paul failed to provide § 87(2)(b) with a business card (**Allegations J-K: Abuse of Authority, § 87(2)(g); Allegation L: Abuse of Authority, § 87(2)(g)**). PO Paul failed to provide § 87(2)(b) with a business card (**Allegation M: Abuse of Authority, § 87(2)(g)**). No arrest or summons resulted from this incident.

Body-worn camera ("BWC") footage (**Board Review 01-03**) was obtained from the NYPD Legal Bureau. There is no other video evidence.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Ahmed Almelaiki stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Derrell Henry stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (C) Abuse of Authority: Police Officer Keston Paul stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (D) Abuse of Authority: Police Officer Ahmed Almelaiki stopped § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Derrell Henry stopped § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Keston Paul stopped § 87(2)(b)

§ 87(2)(b) testified that after work he hailed a cab to go home (**Board Review 04**). § 87(2)(b) sat in the rear passenger seat and the trip took approximately eight minutes. The cab driver, § 87(2)(b) identified via the investigation, did not commit any traffic infractions and he and § 87(2)(b) both wore their seatbelts. Upon arriving at his residence, § 87(2)(b) took off his seatbelt to pay § 87(2)(b) when he noticed an unmarked Ford Taurus police car behind him. PO Almelaiki, PO Paul, and PO Henry exited the car. § 87(2)(b) figured that the car stop had nothing to do with him and went to exit the cab. PO Henry approached and ordered § 87(2)(b) to remain in the car and began talking to § 87(2)(b) asking for his registration and ID. PO Almelaiki approached the passenger's side and asked PO Henry, "Is that him?" § 87(2)(b) asked PO Almelaiki who he was talking about. PO Almelaiki went behind the car and spoke with PO Henry while PO Paul remained on the driver's side. PO Henry approached the passenger side and ordered § 87(2)(b) to produce his ID. PO Henry told § 87(2)(b) that they wanted to know who they were talking to. § 87(2)(b) explained that he was just a passenger and did not know why he was being stopped. PO Henry told § 87(2)(b) that he was being stopped for not wearing a seatbelt. § 87(2)(b) explained that he had his seatbelt on and took it off because he was at his destination.

§ 87(2)(b) declined to provide a statement to the CCRB (**Board Review 16**).

In PO Almelaiki's BWC footage (**Board Review 01**), beginning at the 00:01, § 87(2)(b) is seated in the rear passenger's seat of the cab without his seatbelt on, as § 87(2)(b) is seated in the driver's seat with his seatbelt on. Though there is no audio, § 87(2)(b) appears to speak to PO Almelaiki, who stands on the passenger's side of the cab. At 01:22, § 87(2)(b) says his name is § 87(2)(b) and that his date of birth is § 87(2)(b), and asks for his ticket. At 01:30, PO Almelaiki tells § 87(2)(b) that the officers stopped him because he is not wearing a seatbelt. § 87(2)(b) says the officers are not enforcing seatbelt violations elsewhere and calls the officers "Suckers."

PO Almelaiki's and PO Henry's account were generally consistent and consistent with BWC footage (**Board Review 05 and 06**). PO Almelaiki was in the front passenger seat of the police vehicle while PO Pail was driving, and PO Henry was in the rear passenger seat. PO Almelaiki and PO Henry observed a passenger, § 87(2)(b) not wearing a seatbelt in a taxi. They activated the police lights and sirens to stop the taxi solely because § 87(2)(b) was not wearing a seatbelt. PO Almelaiki and PO Henry did not recall if the driver, identified via the investigation as § 87(2)(b) had his seatbelt on. PO Almelaiki and PO Henry approached the right side of the taxi as PO Paul approached § 87(2)(b).

In his statement, PO Almelaiki stated the officers explained to § 87(2)(b) that he was not wearing a seat belt and ordered him to produce his ID. § 87(2)(b) did not dispute that he was not wearing a seatbelt but told the officers to give him a ticket and gave the officers a hard time, calling them "Niggers," "Suckers," and "Faggots."

In his statement, PO Henry stated § 87(2)(b) was verbally combative in that he was yelling that the officers did not have any reason to stop him and not complying with anything the officers asked him. PO Henry did not remember if § 87(2)(b) disputed not wearing a seatbelt.

The Department Advocate's Office ("DAO") confirmed that on April 9, 2022, PO Paul retired from the NYPD (**Board Review 07**). Therefore, he could not be interviewed by the CCRB.

The Stop Report (**Board Review 08**), prepared by PO Henry notes that they stopped § 87(2)(b) for not wearing a seatbelt in the back of a taxicab.

The Vehicle Report (**Board Review 09**), prepared by PO Almelaiki notes that the basis for the stop was New York Vehicle and Traffic Law, 1229, §C.

New York Vehicle and Traffic Law, 1229, §C, (**Board Review 10**) states that, "no person sixteen years of age or over shall be a passenger in a motor vehicle unless such person is restrained by a safety belt approved by the commissioner."

§ 87(2)(g)
[REDACTED]

Allegation (G) Abuse of Authority: Police Officer Derrell Henry frisked § 87(2)(b)
Allegation (I) Abuse of Authority: Police Officer Ahmed Almelaiki threatened to arrest § 87(2)(b)

§ 87(2)(b) testified that PO Henry ordered him to step out of the car and he complied. PO Henry then asked § 87(2)(b) to place his hands up, and he complied. PO Henry frisked § 87(2)(b) starting with patting his jacket, his sides, waistband, and down his legs. § 87(2)(b) wore a jacket, t-shirt, and baggy pants. He had his AirPods, charger, and keys in his left pants pocket and his money and cellphone in his right pants pocket. There was nothing in his jacket pockets. § 87(2)(b) did not believe that any of the items created a bulge as his pants were loose. PO Henry felt the brick of § 87(2)(b)'s phone charger and asked what it was. § 87(2)(b) explained that it was his phone charger. PO Henry did not enter § 87(2)(b)'s pockets. PO Henry ordered § 87(2)(b) to produce his ID and § 87(2)(b) explained that he did not have his ID as he lost his wallet. PO Henry asked § 87(2)(b) for his name and date of birth. § 87(2)(b) told PO Henry that his name was § 87(2)(b) which was his Muslim name. PO Henry entered the information into his phone and told § 87(2)(b) that nothing came up and asked if he has previously been arrested. § 87(2)(b) said he did not. § 87(2)(b) did not provide his legal name because he was annoyed and did not want to cooperate with the officers. PO Henry asked § 87(2)(b) why he was lying about his name. § 87(2)(b) explained that he converted to Islam and his name was § 87(2)(b). PO Henry asked § 87(2)(b) if he could prove that he lived at the location. § 87(2)(b) called his wife, § 87(2)(b) to come down. She exited the building and showed PO Almelaiki a copy of § 87(2)(b)'s ID that she had on her phone. PO Almelaiki asked § 87(2)(b) "Why would you not tell me your name is § 87(2)(b)?" § 87(2)(b) explained that he is Muslim, and his name is § 87(2)(b). PO Henry explained to § 87(2)(b) that he was lucky his wife showed his ID as they would have placed him under arrest if they could not identify him.

In PO Almelaiki's BWC footage, at 02:20, PO Almelaiki asks § 87(2)(b) to spell his name and for his date of birth (**Board Review 01**). At 2:40, § 87(2)(b) confirms the spelling of his name and date of birth. At 03:40, § 87(2)(b) asks the officers why they need his ID and tells them to give him a ticket. PO Almelaiki says they cannot verify § 87(2)(b)'s name and therefore cannot give him a ticket. At 03:59, § 87(2)(b) says he lost his ID. At 04:02, PO Henry, who holds § 87(2)(b)'s ID in his hand, tells § 87(2)(b) that if the officers cannot identify him that may have to take him back to the stationhouse to give him the ticket there. § 87(2)(b) tells the officers to take him and attempts to exit the car, but PO Henry closes the door. At 04:13, PO Almelaiki tells § 87(2)(b) he is making this difficult and § 87(2)(b) denies that he is and says he provided the officers with his name and date of birth. At 04:45, PO Almelaiki says the officers might need to bring him back to the stationhouse if they cannot verify his identity. PO Henry appears to search § 87(2)(b)'s information on his department phone, as the officers ask § 87(2)(b) if he has ever been arrested or received a summons before. He says no. At 05:57, PO Henry orders § 87(2)(b) to exit the car. He complies. PO Almelaiki orders § 87(2)(b) to put his hands up and face the car. He complies. At 06:09, PO Henry frisks § 87(2)(b)'s pants pockets and sweater pockets. At 06:32, PO Almelaiki asks § 87(2)(b) if he has his ID on him. He says he already told the officers he did not. The officers explain to § 87(2)(b) that nothing is coming up for him and explain that they are trying to prevent bringing him to the stationhouse. At 08:48, § 87(2)(b) calls § 87(2)(b) and says he is upset that the officers stopped him. At 09:18, PO Paul asks § 87(2)(b) why he is giving the officers a fake name. He says he is not and that his wife is on the phone. § 87(2)(b) asks his wife what his name is, though the call is not on speakerphone. At 09:50, § 87(2)(b) says his wife is coming. The officers explain that they need to identify him to issue him a summons for the seatbelt violation. At 12:20, PO Almelaiki speaks to § 87(2)(b) who says that § 87(2)(b) is Muslim and goes by § 87(2)(b) but that his first name is § 87(2)(b). PO Almelaiki looks at a copy of § 87(2)(b)'s ID on § 87(2)(b)'s phone. PO Almelaiki tells § 87(2)(b)

that he is going to give § 87(2)(b) a warning because of her cooperation. At 15:00, PO Almelaiki returns to § 87(2)(b) and the other officers. PO Paul asks why he provided the officers with a wrong name and § 87(2)(b) replies, "Because I don't fuck with cops. You all stop me for no reason." At 18:17, PO Almelaiki says, "We are trying to cut you a break right now, but you keep acting up, we are going to be forced to take you back to the precinct and have someone arrest you."

PO Almelaiki § 87(2)(g) testified that the name and date of birth § 87(2)(b) provided did not yield any results in DAS lite, which is uncommon. The officers could not issue a summons without verifying § 87(2)(b)'s information. PO Henry frisked § 87(2)(b)'s front pants pockets and along his waistband and did not discover anything. PO Almelaiki was unsure why PO Henry frisked § 87(2)(b). PO Almelaiki did not recall if he noticed any bulges on § 87(2)(b). PO Almelaiki told § 87(2)(b) that if they could not verify his identity that per Department procedure, they would have to take him to the stationhouse as they would not be able to issue him a summons. When he spoke to § 87(2)(b) identified via the investigation, PO Almelaiki confirmed that § 87(2)(b) provided the officers with a fake name. Since § 87(2)(b) cooperated with the officers, they decided to use their discretion and let § 87(2)(b) go with a warning.

PO Henry § 87(2)(g) testified that from the passenger's side of the vehicle, he could see that § 87(2)(b) who was seated in the car, had something bulky in his front right pants pocket. PO Henry did not have any independent recollection of the bulky object he observed. Upon reading aloud and reviewing the narrative of the Stop Report (**Board Review 8**) he prepared, PO Henry stated that when the officers activated the police car's turret lights, § 87(2)(b) looked back a few times at the police car then moved around in the car a lot, as if he was trying to conceal something. PO Henry did specifically recall what § 87(2)(b) was doing with his body that suggested that he was trying to conceal something, as he did not have any independent recollection of this and was going by what he wrote on the Stop Report. PO Henry did not recall anything about the size or shape of the object nor where § 87(2)(b)'s hands while he was seated inside the car. He said that the only thing he remembered about the stop and the bulge was what he wrote in the Stop Report. He believed that the object might have been a weapon from the body movements § 87(2)(b) was making prior to the stop. PO Henry did not recall anything about what he observed of the object that made him believe it was a weapon. The decision to frisk § 87(2)(b) was based on § 87(2)(b)'s movement and the observed object. He did not recall if he observed any other bulges on § 87(2)(b)'s person besides the one in his front right pants pocket. PO Henry solely frisked § 87(2)(b)'s front right pants pocket and did not recall frisking him anywhere else on his body. There were no weapons found. PO Henry believed that the object was later revealed to be keys, though he did not remember with certainty. Besides not wearing a seatbelt, § 87(2)(b) also committed the crime of criminal impersonation, as he provided the officers with a false name, as the name he provided verbally to officers differed from the one on his ID that § 87(2)(b) identified via the investigation, showed the officers. To issue § 87(2)(b) a summons the officers needed his legal name. PO Henry did not recall hearing PO Almelaiki threatening to arrest § 87(2)(b) or to take him to the stationhouse. PO Henry might have told § 87(2)(b) this because if the officers could not identify him on scene to issue a summons, they would be authorized to bring § 87(2)(b) back to the stationhouse. When presented with PO Almelaiki's BWC footage (**Board Review 01**), PO Henry remembered that he frisked § 87(2)(b)'s right front pants pocket, which was the first bulge that he observed while § 87(2)(b) was in the car, as well as his left front pants pocket and left hoodie pocket because he observed additional bulges there after § 87(2)(b) stepped out of the car. The footage did not refresh his recollection on the size or the shape of any of the bulges.

The Stop Report (**Board Review 08**), prepared by PO Henry, notes that once the officers activated

their car's turret lights and sirens, § 87(2)(b) looked back multiple times in a nervous manner and moved back and forth, making the officers believe that he was trying to conceal something. Upon the officers' approach, § 87(2)(b) was verbally combative, while moving a "hard unidentified object/bulge" in his right pants pockets. Believing that § 87(2)(b) was potentially armed and dangerous, PO Henry frisked § 87(2)(b). No weapons were recovered.

People v. DeBour, 40 N.Y. 2d. 210 (1976) (**Board Review 12**), states that, "an officer may frisk an individual when they reasonably suspect that the individual may be armed and present a risk of harm to the officer. If an apparent weapon is revealed during a frisk, a limited search may be conducted only of the area where the apparent weapon is discovered."

In People v. Stevenson, 779 N.Y.S.2d 498 (2004) (**Board Review 13**), an officer's observation of a waistband bulge and the adjusting of the clothes around it alone, with no details indicating that the bulge had an outline of a weapon, observations "readily susceptible of an innocent as well as guilty explanation," was insufficient to determine reasonable suspicion. Absent any other information indicative of criminality, the observation justified a common-law inquiry, but not did not justify a frisk.

§ 87(2)(g)

A warrantless arrest can be made for a petty offense, including violations and traffic infractions, and any crimes made in the presence of a police officer. NYPD Patrol Guide, Procedure 208-01 (**Board Review 14**). When issuing a summons returnable to Traffic Violations Bureau or Criminal Court, an officer must request that the violator show proof of identity and residence and if doubt concerning the identity exists, the officer should remove the violator to the command. NYPD Patrol Guide, Procedure 209-09 (**Board Review 15**).

§ 87(2)(g)

Allegation (H) Abuse of Authority: Police Officer Keston Paul searched the vehicle in which § 87(2)(b) was an occupant.

Although § 87(2)(b) did not provide a statement and § 87(2)(b) testified that the officers did not search his vehicle, the BWC footage captures PO Paul searching the back seat of the vehicle. In PO Paul's BWC footage (**Board Review 03**), at 06:02, PO Paul opens the rear driver's side door. At 06:30, he enters the vehicle and searches the rear passenger's floor and tells § 87(2)(b) "I saw something there." At 06:50, PO Paul exits the car and closes the door.

As mentioned above, PO Paul retired from the NYPD and, therefore, could not be interviewed by the CCRB.

§ 87(2)(g)

Allegation (J) Abuse of Authority: Police Officer Derrell Henry failed to provide § 87(2)(b) with a business card.

Allegation (K) Abuse of Authority: Police Officer Ahmed Almelaiki failed to provide § 87(2)(b) with a business card.

Allegation (L) Abuse of Authority: Police Officer Keston Paul failed to provide § 87(2)(b) with a business card.

Allegation (M) Abuse of Authority: Police Officer Keston Paul failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) testified that he did not receive business cards from any of the officers. PO Almelaiki said that they were going to cut § 87(2)(b) a break and the officers then released § 87(2)(b) without issuing a summons. The officers interacted with § 87(2)(b) for approximately another minute before the cab drove away.

In PO Almelaiki's BWC footage (**Board Review 01**), at 19:00: PO Almelaiki explains to § 87(2)(b) that the officers are going to cut him a break but that he has to wear a seatbelt. § 87(2)(b) replies, "Can I walk off, or no?" PO Almelaiki says yes, and § 87(2)(b) walks away from the officers. PO Henry tells the cab driver he can leave. None of the officers offer § 87(2)(b) or § 87(2)(b) their respective business cards.

PO Almelaiki testified that he did not provide § 87(2)(b) with a business card because the officers provided their information verbally during the stop and because § 87(2)(b) left abruptly. § 87(2)(b) kept asking, "Am I free to go?" and once the officers said yes, he immediately walked off. There would not have been an opportunity to offer § 87(2)(b) a business card with how abruptly he left. His sudden departure indicated to PO Almelaiki that § 87(2)(b) did not want a business card.

PO Henry testified that he did not remember if he or the officers offered § 87(2)(b) a business card but knew that the officers provided their information verbally to § 87(2)(b). PO Henry did not recall if he or any officer offered § 87(2)(b) a business card. Officers are only required to offer a business card to civilians when they ask for one.

As mentioned above, PO Paul retired from the NYPD and, therefore, could not be interviewed by the CCRB.

NYPD Administrative Guide, Procedure 304-11, requires officers to offer a business card upon the conclusion of law enforcement activities, including stops, frisks, and searches of persons, except in cases when a summons is issued, or an arrest is made (**Board Review 17**).

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Paul is no longer a member of service and has been named a subject in five CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)
- PO Almelaiki has been a member of service for six years and has been a subject in one CCRB complaint and three allegations, none of which were substantiated. § 87(2)(g)
- PO Henry has been a member of service for four years and has been a subject in two CCRB complaints five allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On January 31, 2023, a Notice of Claim inquiry was sent to the New York City Office of the Comptroller (**Board Review 18**). The results will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 16

Investigator:	Ariana Thomas	Inv. Ariana Thomas	02/13/2023
	Signature	Print Title & Name	Date

Squad Leader:	Patrick Yu	IM Patrick Yu	02/13/2023
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date